



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 29]

नई दिल्ली, सोमवार, अगस्त 26, 2013/भाद्रपद 2, 1935 (शक)

No. 29] NEW DELHI, MONDAY, AUGUST 26, 2013/BHADRAPADA 2, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 26th August, 2013:—

I**BILL NO. LVI OF 2013**

A Bill to amend the Nalanda University Act, 2010.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Nalanda University (Amendment) Act, 2013.

Short title
and
commencement.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

39 of 2010.

2. In the Nalanda University Act, 2010 (hereinafter referred to as the principal Act), in the preamble,—

Amendment
of preamble.

(a) in paragraph 3, after the words, "State of Bihar", the words "as a contemporary University inspired by the academic excellence and global vision of the historic Nalanda" shall be inserted;

(b) after paragraph 3, the following paragraph shall be inserted, namely:—

"AND WHEREAS, as the University progresses, it is intended to conclude an inter-governmental agreement, and encourage Member States of the East Asia Summit to become parties to the said agreement.”.

Amendment
of section 7.

3. In section 7 of the principal Act,—

(a) in sub-section (1)—

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) five members, one each to be nominated by five Member States of the East Asia Summit, invited by the Government of India with the concurrence of the Visitor;";

(ii) in clause (d), for the words "rank of Secretary", the words "rank of Secretary dealing with East Asia Summit Member States" shall be substituted;

(iii) for clause (g), the following clause shall be substituted, namely:—

"(g) five persons of eminence to be recommended by the Governing Board and nominated with the approval of the Visitor;";

(iv) after clause (g), the following clause shall be inserted, namely:—

"(h) two members of the academic faculty of the University nominated by the Vice-Chancellor.";

(b) in sub-section (2), for the words, brackets and letters "clauses (c) to (g)", the words, brackets and letters "clauses (c), (e), (g) and (h)" shall be substituted;

(c) in sub-section (3), for the words "The Chancellor", the words "The Chancellor or in his absence, any member nominated by him from the Governing Board" shall be substituted;

(d) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Registrar of the University shall be the Secretary of the Governing Board.".

Amendment
of section 8.

4. In section 8 of the principal Act, in the proviso to sub-section (2), for the words, brackets and letters "clauses (c) to (g)", the words, brackets and letters "clauses (c) to (h)" shall be substituted.

Amendment
of section 9.

5. In section 9 of the principal Act,—

(i) in sub-section (1),—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) to meet and set global standards of academic excellence and research and enable capacity building in the domain of philosophy, language, history and other areas of higher learning;";

(b) in clause (b), for the words "promotion of", the words "promotion of global inclusiveness" shall be substituted;

(c) clause (c) shall be omitted;

(d) after clause (i), the following clause shall be inserted, namely:—

"(j) to encourage other interested countries, who are not Members of the East Asia Summit, to collaborate in developing the Nalanda University as an international centre of excellence.";

(ii) in sub-section (2), for the words "from each of the Member States", the words "from the Member States, Institutions and Organisations" shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (2), the Government of India may meet both capital and recurring expenditure of the University to the extent required.".

6. In section 10 of the principal Act,—

(a) for clause (*ii*), the following clause shall be substituted, namely:—

“(*ii*) to set up a consortium of international partners in furtherance of the objectives of the University;”;

(b) in clause (*ix*), for the words “Readerships and Lecturerships”, at both the places where they occur, the words “Associate Professorships and Assistant Professorships” shall be substituted;

(c) in clause (*xxiii*), for the word “Ordinances”, the word “Statutes” shall be substituted;

(d) in clause (*xxiv*), for the words “to borrow”, the words “to borrow funds” shall be substituted;

(e) after clause (*xxviii*), the following clause shall be inserted, namely:—

“(xxix) to appoint persons working in any other University or academic institution, including those located outside the country, as faculty of the University for a specified period.”.

7. In section 11 of the principal Act, for the words “irrespective of gender”, the words “irrespective of nationality, gender” shall be substituted.

8. In section 12 of the principal Act, in sub-section (*I*), the proviso shall be omitted.

9. In section 13 of the principal Act, after clause (2), the following clauses shall be inserted, namely:—

“(2A) the Deans;

(2B) the Provosts;”.

10. After section 15 of the principal Act, the following sections shall be inserted, namely:—

“15A. The Deans shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.

15B. The Provosts shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.”.

11. For section 21 of the principal Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 25th November, 2010, namely:—

“21. The University, members of the academic staff and, where applicable, their dependents or members of the family shall enjoy such privileges and immunities as the Central Government may, after entering into an agreement with the University from a date not earlier than the date of the commencement of this Act, notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947.”.

46 of 1947.

12. In section 22 of the principal Act, for clause (3), the following clause shall be substituted, namely:—

“(3) the Councils of Schools of Studies;”.

13. In section 24 of the principal Act,—

(a) in sub-section (2)—

Amendment
of
section 10.

Amendment
of
section 11.

Amendment
of
section 12.

Amendment
of
section 13.

Insertion of
new sections
15A and 15B.

Deans.

Provosts.

Substitution
of new
section for
section 21.

Privileges
and
immunities
of
University,
academic
staff, etc.

Amendment
of
section 22.

Amendment
of
section 24.

(i) for clause (iv), the following clause shall be substituted, namely:—

“(iv) Economics and Management;”;

(ii) in clause (v), for the word "Langauges", the word “Linguistics” shall be substituted;

(iii) after clause (vi), the following clause shall be inserted, namely:—

“(via) Information Sciences and Technology;”;

(b) in sub-section (3), for the word “Board”, the word “Council” shall be substituted;

(c) in sub-section (4), for the words “Boards of School”, the words “Councils of Schools” shall be substituted.

14. In section 27 of the principal Act, for clause (k), the following clause shall be substituted, namely:—

“(k) Schools of Studies, members of their Councils and the powers and functions of such Councils;”.

15. In section 31 of the principal Act, in sub-section (3), for the words “shall also be submitted”, the words “shall be sent” shall be substituted.

16. In section 32 of the principal Act, sub-section (6) shall be omitted.

17. In section 42 of the principal Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 25th November, 2010, namely:—

“(3) The power to make Statutes, Ordinances and Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances, Regulations or any of them but no such retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulations may be applicable.”.

18. In section 43 of the principal Act,—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) the first Registrar, the first Finance Officer, the first Deans and the first Provosts shall be appointed by the Governing Board, as it may deem fit, and each of the said officers shall hold office for a term of three years;”;

(ii) clause (b) shall be omitted.

Amendment
of
section 27.

Amendment
of
section 31.

Amendment
of
section 32.

Amendment
of
section 42.

Amendment
of
section 43.

STATEMENT OF OBJECTS AND REASONS

The Nalanda University Act, 2010 (the Act) was enacted to implement the decisions arrived at the Second East Asia Summit held on the 15th January, 2007, in the Philippines and subsequently at the Fourth East Asia Summit held on the 25th October, 2009 in Thailand for the establishment of the Nalanda University in the State of Bihar as an international institution for the pursuit of intellectual, philosophical, historical and spiritual studies and for matters connected therewith or incidental thereto.

2. The Act came into force on the 25th November, 2010. The President of India is the Visitor of the University and Professor Amartya Sen is the Chancellor and Chairman of the Governing Board. The University has commenced its operations from its office in New Delhi. The construction of the buildings that will come up in Phase I is expected to begin in the last quarter of 2013-14. Teaching in the Schools of Ecology and Environment Studies and Historical Studies is expected to begin from leased premises in September, 2014. Teaching in all the seven schools will commence in the academic year 2017-18.

3. It has become necessary to amend certain provisions of the Act in order to create an even better governance structure for the University than exists presently, and help speed up the project. At present, there is no provision in the Act to extend privileges and immunities provided under the Act to the University, in addition to its academic staff, from the date of the commencement of the Act. A provision is required so as to enable the Government of India to meet not only the University's capital expenditure but its recurring expenditure as well. The Act does not provide for retrospective operation of the Statutes, Ordinances and Regulations from the date of commencement of the Act, which will provide the University a legal basis for appointments, and for financial decisions made before the Statutes, Ordinances and Regulations came into force.

4. In view of the above, it becomes necessary to amend the Nalanda University Act, 2010 by the Nalanda University (Amendment) Bill, 2013, which, *inter alia*, provides for the following, namely:—

- (a) to encourage Member States of the East Asia Summit to conclude an inter-governmental agreement with a view to providing further substantive basis for the University to be treated as an international organisation;
- (b) to amend section 7 of the Act relating to the "Governing Board" so as to increase the number of persons of eminence and to include two members from the academic faculty of the University on the Governing Board;
- (c) to insert a new sub-section (3) to section 9 of the Act so as to enable the Government of India to meet the University's capital and recurring expenditure to the extent required;
- (d) to insert new sections 15A and 15B so as to make a provision for the appointment of Deans and Provosts;
- (e) to substitute section 21 of the Act relating to "privileges and immunities" so as to extend the said privileges and immunities to the University, in addition to the members of the academic staff, under the Headquarters Agreement, applicable from the date of commencement of the Act; and
- (f) to insert a new sub-section (3) to section 42 so as to empower the University to bring its Statutes, Ordinances and Regulations into force with retrospective effect from the date of commencement of the Act.

5. The Bill seeks to achieve the above objects.

SALMAN KHURSHID.

FINANCIAL MEMORANDUM

Clause 5 of the Bill seeks to amend sub-section (2) of section 9 to provide that the Nalanda University shall be a non-profit public-private partnership, which shall seek support from each of the Member States and from other sources but shall be autonomous and accountable to the Governing Board. Accordingly, the University's funding is based on the contributions from the Government of India, and from amongst the Member States of the East Asia Summit, in addition to benefactions, donations and gifts received in accordance with the regulations made by the Governing Board. Private donations, international contributions from other foreign governments and member countries of the East Asia Summit are expected on a voluntary basis.

2. Clause 5 of the Bill further seeks to insert new sub-section (3) to said section so as to provide that the Government of India may meet both capital and recurring expenditure of the University to the extent required. To minimise the burden of recurring expenditure on the Government, the University will take steps to reduce recurring expenditure, and create a revenue model whereby it is able to meet recurring expenditure to the maximum extent possible.

3. Educational Consultants India Ltd. had prepared a detailed Project Report, under which the capital expenditure projected between 2010-2011 and 2021-2022 is Rs. 2154.35 crores, and the recurring expenditure which begins from 2014-2015 is Rs. 1,378.27 crores. On the basis of the said Report, the Ministry of External Affairs had submitted the Expenditure Finance Committee Memorandum for the consideration of the Expenditure Finance Committee (EFC). Based on the observations of the EFC, efforts are being made to significantly reduce both capital and recurring expenditure. Taking into account the inputs, the University is working on a revenue model to deal with recurring expenditure. In parallel, it has constituted an External Endowment Committee to raise funds through Public-Private Partnership, and is also preparing estimates of capital and recurring expenditure beyond 2021-2022. Taking into account the inputs due to be received from the University, the EFC proposal will be further refined and a revised proposal for continuous budgetary support until 2021-2022 will be sent to the EFC. Thereafter, the proposal will be brought before the Cabinet separately.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to insert a new section 15A which provides that the Deans shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes. The said clause of the Bill further seeks to insert a new section 15B which provides that the Provosts shall be appointed in such manner and on such terms and conditions of service and exercise such powers and perform such functions as may be prescribed by the Statutes.

2. The matters in respect of which the Statutes or Ordinances or Regulations may be made are matters of procedure and administrative detail. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. LVII OF 2013

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Representation of the People (Amendment and Validation) Act, 2013.

Amendment of section 7.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in section 7, in clause (b), after the words "or Legislative Council of a State", the words "under the provisions of this Chapter, and on no other ground" shall be inserted.

43 of 1951.

Amendment of section 62.

3. In section 62 of the principal Act, after the proviso to sub-section (5), the following proviso shall be inserted, namely:—

"Provided further that by reason of the prohibition to vote under this sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector.".

Validation.

4. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of the Representation of the People Act, 1951, as amended by this Act, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act had been in force at all material times.

43 of 1951.

STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections of the Houses of Parliament and the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

2. A Division Bench of the Supreme Court by its order dated the 10th July, 2013, in the case of *Chief Election Commissioner vs. Jan Chaukidar and others* (Civil Appeal Nos. 3040-3041 of 2004), has upheld an order of the High Court of Patna declaring that a person who has no right to vote by virtue of sub-section (5) of section 62 of the said Act, is not an elector and is, therefore, not qualified to contest the election to either House of Parliament or the Legislative Assembly of a State.

3. The Government has examined the said order of the Supreme Court and has filed a petition for review of the said order in consultation with the Learned Attorney-General for India. Further, the Government is of the view that without waiting for the outcome of the said review petition, there is a need for suitably addressing the situation arising out of the said order of the Supreme Court. Therefore, it is proposed to amend the said Act.

4. The amendments proposed in the Representation of the People (Amendment and Validation) Bill, 2013, *inter alia*, are as under:—

(a) to amend the definition of the term "disqualified" in clause (b) of section 7 so as to expressly provide that a member of Parliament or the Legislature of a State shall be disqualified for being chosen as or for being such member only if he is so disqualified under the provisions of Chapter III of Part II of the said Act and on no other ground;

(b) to insert a proviso to sub-section (5) of section 62 so as to expressly provide that by reason of the prohibition to vote under the said sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector.

5. The Bill seeks to achieve the above objectives.

KAPIL SIBAL.

SHUMSHER K. SHERIFF,
Secretary-General.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA.